

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

SHANNON PEREZ, *et al.*,

Plaintiffs,

v.

STATE OF TEXAS, *et al.*,

Defendants.

CIVIL ACTION NO.
SA-11-CA-360-OLG
[Lead case]

DEFENDANTS' MOTION TO REVIEW THE TAXING OF COSTS

On October 29, 2021, the clerk taxed costs against Defendants, ECF 1719; ECF 1720, pursuant to proposed bills of costs filed by attorney J. Gerald Hebert on behalf of the Quesada Plaintiffs, ECF 1691, and attorney Gary L. Bledsoe on behalf of the NAACP Plaintiffs, ECF 1692. Defendants file this motion to review the clerk's action pursuant to Local Rule CV-54(a)(5).

Under Federal Rule of Civil Procedure 54, only "the prevailing party" is allowed costs. Fed. R. Civ. P. 54(d)(1). For the reasons Defendants explained in their separate briefing on prevailing-party status, neither the Quesada Plaintiffs nor the NAACP Plaintiffs are prevailing parties. ECF 1655; ECF 1656. Defendants recognize that the Court concluded otherwise, ECF 1683, but Defendants maintain their previous position and preserve their argument, for purposes of appeal, that these plaintiffs did not prevail.¹

Defendants respectfully request that the Court review the clerk's action and deny costs to

¹ Although Defendants challenged the reasonableness of the particular costs contained in other plaintiffs' bills of costs, ECF 1710; ECF 1712, Defendants only challenge the bills of costs filed by Mr. Hebert and Mr. Bledsoe on the ground that the Quesada Plaintiffs and NAACP Plaintiffs are not prevailing parties.

the Quesada Plaintiffs and the NAACP Plaintiffs.

Date: November 4, 2021

Respectfully submitted.

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COUNSEL FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on November 4, 2021, and that all counsel of record were served by CM/ECF.

/s/ J. Aaron Barnes
J. AARON BARNES